

Appln. No. 10/091,946
Docket No. 14XZ00152/GEM-0214

REMARKS / ARGUMENTS

Status of Claims

Claims 1-29 are pending in the application. Claims 1-6, 13-16, 18-21, 24-27 and 29 stand rejected. Claims 7-12, 17, 22, 23 and 28 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant appreciates the Examiner's comments regarding the allowability of the noted claims. Applicant has canceled Claims 4-9, 11-12 and 21-22, and has amended Claims 1, 10, 18 and 23, leaving Claims 1-3, 10, 13-20 and 23-29 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §112, first paragraph, and 35 U.S.C. §103(a), have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

These amendments and accompanying remarks were not presented earlier because Applicant did not fully appreciate the nature of the Examiner's position until the Applicant was advised in more detail of the position by the final rejection. The claim amendments presented herein, which Applicant respectfully requests entry thereof, should require only a cursory review by the Examiner as they include only elements presented in earlier examined claims. Accordingly, such amendments should not require further consideration or search.

Rejection Under 35 U.S.C. §112, First Paragraph

Claims 4-12 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. The Examiner alleges that after reviewing the specification, it is not understood what the meaning of "weighting law" is in Claims 4-12. The Examiner further alleges that the description makes no note of "weighting law", and that the Examiner can interpret the meaning for "weighting law" as gravity on the human body, or a function rule. Paper 20051015, page 6.

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Applicant traverses this rejection for the following reasons.

The Examiner acknowledges that the term "weighting law" may be interpreted as a function rule.

Applicant agrees with the Examiner's interpretation, which is supported by the specification in such detail as to enable a person skilled in the art to make and use the invention. For example, see Paragraph [0016] (discussing an exemplary function rule as further illustrated by Figure 3), Paragraph [0027] (illustrating a mathematical expression of a function rule), and Paragraph [0035-0038] (discussing characteristics of an exemplary function rule).

Applicant has canceled Claims 4-9 and 11-12, and has amended Claim 1 to incorporate language from Claims 4 and 7.

Furthermore, in an effort to better align the claim language with the specification language, Applicant has replaced the phrase "weighting law" with the phrase "function rule". No new matter has been added as antecedent support may be found in the specification as originally filed and discussed above.

In view of the foregoing, Applicant submits that the scope of the now claimed invention is commensurate with the disclosure contained within the specification and drawings as originally filed, and respectfully requests that the Examiner reconsider and withdraw this rejection, which Applicants considers to be traversed.

Rejections Under 35 U.S.C. §103(a)

Claims 1-6, 13-16, 18-21, 24-27 and 29, stand rejected under 35 U.S.C. §103(a) as being unpatentable over Azuma et al. (U.S. Patent No. 6,839,457, hereinafter Azuma) in view of Watanabe (U.S. Patent No. 6,760,611, hereinafter Watanabe) in further view of Harms et al. (U.S. Patent No. 5,415,163, hereinafter Harms).

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the References is improper as the References fail to *teach or suggest each and every element of the instant invention*. For an obviousness rejection to be proper, the Examiner must

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meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988) (Emphasis added). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

The Examiner remarks that Claims 7-12, 17, 22, 23 and 28 are objected to, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant has canceled Claims 4-9, 11-12 and 21-22, has incorporated claim language from Claims 4 and 7 into independent Claim 1, and has incorporated claim language from Claims 21 and 22 into independent Claim 18, thereby directing the invention of the independent claims to allowable subject matter. Dependent claims inherit all of the limitations of the respective parent claim.

In view of the foregoing, Applicant submits that the claimed invention is now directed to allowable subject matter, and therefore respectfully requests reconsideration and withdrawal of this rejection, which Applicant considers to be traversed.

Applicant has amended the claims for presentation in better form for consideration on appeal, and to more clearly reflect Applicant's invention. The claim amendments should only require a cursory review by the Examiner as they only include language presented in earlier allowed claims.

In light of the foregoing remarks and amendments, Applicant respectfully submits that the proposed amendments and arguments comply with 37 C.F.R. §1.116 and should therefore be entered, and with their entry that the Examiner's rejections under 35 U.S.C. §112, first paragraph, and 35 U.S.C. §103(a), have been traversed, and that the application is now in condition for allowance. Such action is therefore respectfully requested.

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The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 50-2513.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above identified Deposit Account.

Respectfully submitted,

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